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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,543	04/14/2004	Thinh Cat Nguyen	1875.1030004	4381
26111	7590	01/11/2005	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			SHINGLETON, MICHAEL B	
			ART UNIT	PAPER NUMBER
			2817	
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/823,543	Applicant(s) NGUYEN ET AL.	
	Examiner Michael B. Shingleton	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/19/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 19-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,744,320. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the present application and the claims of the '320 patent claim the same variable gain amplifier but with different wording. For example the claims of the '320 patent utilizes means for claim language and the claims of the instant application specifically recites what makes up the means. Claims of the '320 patent recites "means for applying a degeneration resistance while the claims of the instant applicant recites "a plurality of degeneration resistance circuits". Since "means for" claim language is directed toward the what is disclosed and the equivalents thereof, clearly the claims of the instant application is directed toward what is disclosed and the equivalents thereof. While the claims of the '320 patent is silent on the transistors being NMOS transistors such transistors are art recognized equivalents to the transistors of the '320 patent. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized NMOS transistors are these are art-recognized equivalents to the transistors claimed in the '320 patent. The use of NMOS does not present a patent distinction over the claims of the '320 patent. The claims of the '320 patent is silent on the use of integrating the arrangement on a substrate, however, such is conventionally known in the art so as to save space and make for a more reliable structure. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have integrated the structure claimed in the '320 patent so as to save space and make for a more reliable structure as is conventionally known. The use of integration does not present a patent distinction over the claims of the '320 patent. Clearly, the claimed variable gain amplifier of the '320 is meant to be a component of a larger system and receivers are a larger system that employs variable gain amplifiers. Accordingly, it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to utilize the variable gain amplifier in a receiver system that incorporates a conventional variable gain amplifier that is responsive to the strength of the RF signal because the claimed variable gain amplifier of the '320 patent is an art recognized equivalent to the variable gain amplifier of such a conventional receiver system. The use of the claimed amplifier in a receiver does not present a patent distinction over the claims of the '320 patent. The claimed function of the instant application that sets forth an amplification of an input signal is proportional to a strength of the input signal and a strength of a second signal is seen as being part of the means for structure of the '320 patent.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

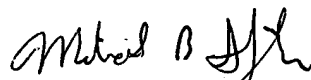
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is (571) 272-1770. The examiner can normally be reached on Tues-Fri from 8:30 to 4:30. The examiner can also be reached on alternate Mondays. The examiner normally has the second Mondays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal, can be reached on (571)272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MBS
1-1-2005

A handwritten signature in black ink, appearing to read "Michael B Shingleton", with a stylized flourish at the end.

Michael B Shingleton
Primary Examiner
GROUP ART UNIT 2817